IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

SECOND APPEAL NO. 93 OF 2005

Smt.Laxnmibai Dattaram Bhoir & ors. ... Appellants.

Versus.

Sanjay Sakharam Bhoir & anr. ...Respondents.

Shri Sandeep A.Bhagwat for the Appellant.

CORAM : ABHAY S. OKA, J.

DATED : 23rd March, 2005.

P.C.:

1. Heard the learned Counsel appearing for the Appellant.

2. The case made out by the Appellants in the suit filed by the Respondent No.1 was that the two brothers namely Sakharam (predecessor-in-title of the Respondent No.1) and Dattaram (predecessor-in-title of the Appellants) were running a club in Mumbai and the property in dispute is purchased out of the income derived from the said club. In the suit was filed by the Appellants the contention raised is that though the property was acquired in the name of Sakharam Bhoir, the acquisition was made from the joint funds.

3. The learned Counsel appearing for the Appellants relied upon the statement made by the witness No.2 examined on behalf of the Respondent No.1 to the effect that the club was run jointly by Sakharam and Dattaram.

However, the Appellate Court has recorded a finding that the Appellants have not established any nexus between the income allegedly received from the said club and the purchase of the property. There is a clear finding recorded that the plea of benami transaction could not be established by the Appellants by leading evidence. There is also a finding of fact that the Appellants could not establish by leading any cogent evidence that they were in possession of the suit property from the year 1964.

4. In view of the findings of fact the Courts below have accepted the case of the Respondent No.1 that Sakharam was the sole owner of the suit property.

5. The findings recorded by the Courts below are findings of fact based on the evidence on record. Merely because another view is possible to be taken on the basis of the evidence is not a ground to interfere with the concurrent findings recorded by the Courts below. No substantial question of law arises. The Second Appeal is dismissed with no order as to costs.

Judge.